



Docket No.: 050103-0523

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : Customer Number: 49745  
Thomas P. NOLAN, et al. : Confirmation Number: 6160  
Application No.: 10/764,602 : Group Art Unit: 1773  
Filed: January 27, 2004 : Examiner: Bernatz, Kevin M.  
For: HIGHLY ORIENTED PERPENDICULAR MAGNETIC RECORDING MEDIA

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Noting the Office Action of October 31, 2005 wherein restriction has been required, Applicant hereby elects Group I, claims 1-16 and Species 1, claims 1-13 readable thereon with traverse for prosecution in the above-identified application.

The Examiner's characterization of the claims as an intermediate-final relationship is in error. As explained in the MPEP § 806.04(b), typically the intermediate loses its identity in the final product. However, in the instant claims, the layer structure of Group I, does not lose its

identity in the final product of Group II, the perpendicular magnetic recording medium.

Applicant submits that the correct relationship between Groups I and II is a subcombination and combination, in accordance with MPEP § 806.05(c). Thus, two-way distinctness must be shown in order to properly restrict Groups I and II. Groups I and II are clearly not related as intermediate-final product. Thus, reconsideration of the restriction requirement is respectfully requested.

Upon allowance of generic claim 1, examination of the additional species in accordance with 37 C.F.R. § 1.141 is requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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**Date: November 30, 2005**

**Please recognize our Customer No. 49745  
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